

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 19-1622V

UNPUBLISHED

DONNA R. RANDS,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: June 25, 2021

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Shoulder
Injury Related to Vaccine
Administration (SIRVA)

Kelly Danielle Burdette, Burdette Law, PLLC, North Bend, WA, for Petitioner.

Kimberly Shubert Davey, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On October 17, 2019, Donna R. Rands filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that she suffered a right shoulder injury related to vaccine administration (“SIRVA”) as a result of an influenza vaccine administered on September 24, 2018. Petition at 1. Petitioner further alleges that she suffered the residual effects of her injury for more than six months. Petition at 3. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On March 16, 2021, a ruling on entitlement was issued, finding Petitioner entitled to compensation for SIRVA. On June 24, 2021, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$55,000.00 in actual pain and suffering. Proffer at 1. In the Proffer, Respondent represented that Petitioner

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$55,000.00 (in actual pain and suffering), in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

On October 17, 2019, Donna R. Rands (petitioner) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, as amended (“the Vaccine Act” or “the Act”), 42 U.S.C. §§ 300aa-1 to -34. Petitioner alleged that she suffered a Shoulder Injury Related to Vaccine Administration (“SIRVA”) as a result of an influenza (“flu”) vaccine administered to her on September 24, 2018. Petition at 1. On March 12, 2021, the Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report recommending that compensation be awarded, and the Chief Special Master issued a Ruling on Entitlement finding petitioner entitled to compensation on March 16, 2021. ECF No. 23; ECF No. 25.

Respondent proffers that petitioner should be awarded \$55,000.00 in actual pain and suffering. *See* 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

Form of the Award

Petitioner is a competent adult. Evidence of guardianship is not required in this case. Respondent recommends that the compensation provided to petitioner should be made through a lump sum payment as described below and requests that the Chief Special Master's decision and the Court's judgment award the following: a lump sum payment of \$55,000.00, representing compensation for actual pain and suffering, in the form of a check payable to petitioner, Donna R. Rands. Petitioner agrees.

Summary of Recommended Payments Following Judgment

Lump sum payable to petitioner, Donna R. Rands:	\$ 55,000.00
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Respectfully submitted,

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DATED: June 24, 2021